

APPENDIX.

DISTRICT COURT OF THE UNITED STATES,
FOR THE SOUTHERN DISTRICT OF NEW YORK.

C113-250.

UNITED STATES OF AMERICA

VS.

THE NORSTRAND CORPORATION and LEIF NORSTRAND.

NOTICE OF APPEAL

Appellants:

The Norstrand Corporation c/o Ring and Murray
Room 2166 630 Fifth Avenue New York, N. Y.

Leif Norstrand 10 Kempster Road Scarsdale New
York.

Appellants' Attorneys:

RING and MURRAY Room 2166 630 Fifth Avenue
New York, N. Y.

Offense:

Violation of rules, regulations, orders and price
schedules promulgated under Public Law 421 77th
Congress known as the "Emergency Price Control Act
of 1942" in that the defendants were charged with
buying and selling waste paper at over the ceiling

Notice Of Appeal.

prices and failing to keep accurate records thereof. The proceeding was brought on by an information filed on or about November 24th, 1942 (15 counts).

Date of Judgment:

December 8, 1942 made final April 19th, 1943 by the denial of a petition for reconsideration.

Brief Description of Judgment or Sentence:

Appellants were sentenced to pay fines jointly and severally in the amounts of \$5,000 on the first count, \$1,600 on the second count, and \$500 on all the other counts, making a total of \$7,100.

We, the above-named appellants, hereby appeal to the United States Circuit Court of Appeals for the Second Circuit from the judgment above mentioned and from the order denying a petition for reconsideration thereof on the grounds set forth below.

THE NORSTRAND CORPORATION

by LEIF NORSTRAND
President

LEIF NORSTRAND

Dated: April 23rd, 1943

Grounds of Appeal:

1. The judgment is null and void for the reason that the offenses claimed are punishable by a fine of \$75,000 and fifteen years' imprisonment, and are deemed felonies under Section 541 Title 18 United States Code Annotated and cannot be prosecuted upon information, and the Court acquired no jurisdiction.

Notice Of Appeal.

2. Prosecution for such infamous crimes can only be on a presentment or indictment of a grand jury and the entry of the judgment of fine herein is on an information without an indictment of a grand jury and is a violation of the appellants' constitutional rights (5th Amendment) which said rights are jurisdictional and cannot be waived.

3. The Trial Court was in error and denied the appellants their constitutional rights in not advising them at or before the plea of guilty or within ten days thereof, during which time the plea could be withdrawn, that this was an infamous crime, and that the appellants had a right to be free from prosecution except on the indictment of a grand jury.

4. The Court erred in denying the appellants substantial and constitutional rights in permitting the District Attorney to make statements and charges and in accepting and relying on statements and charges of crimes outside of the scope of the information in determining or considering the scope of punishment.

5. The Court erred in measuring the punishment in proportion to asserted profits of the appellants without opportunity to be heard on the amount of said profits.

6. Appellants were denied their constitutional rights to due process of law in having asserted profits assessed against them in the form of a fine without opportunity to be heard.

7. The appellants were denied a fair trial or fair treatment in respect to the determination of the fines

Assignment Of Errors.

imposed against them for all the reasons set forth in the petition for reconsideration heretofore mentioned herein.

8. Section 5 b of the "Emergency Price Control Act of 1942", Title 50, USCA, Section 925 is unconstitutional and void because it provides that criminal proceedings may be commenced by the Attorney General "in his discretion" permitting discrimination among offenders.

RING & MURRAY
CARL E. RING
Attorneys for Appellants

Assignment Of Errors.

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES

vs.

LEIF NORSTRAND and THE NORSTRAND CORPORATION.

NOW COME the defendants, by their attorneys, and say that in the proceedings herein and in the orders and judgments entered there are manifest errors, to wit:

Assignment Of Errors.

ASSIGNMENT OF ERROR NO. 1.

The judgment entered herein is null and void for the reason that the offenses complained of are infamous crimes for which the defendants cannot be held to answer unless on a presentment or indictment of a grand jury (5th Amendment, Constitution).

ASSIGNMENT OF ERROR NO. 2.

The judgment entered herein is null and void for the reason that the offenses complained of are felonies under Section 541, Title 18, United States Code Annotated, and cannot be prosecuted upon information.

ASSIGNMENT OF ERROR NO. 3.

The judgment entered herein is null and void for the reason that there was no presentment or indictment of a grand jury and the Court acquired no jurisdiction.

ASSIGNMENT OF ERROR NO. 4.

The Court erred in not advising the defendants at or before the plea of guilty, or within such time as such plea could be withdrawn, that the crimes charged against the defendants could be prosecuted only upon the presentment or indictment of a grand jury.

ASSIGNMENT OF ERROR NO. 5.

The Court erred in permitting the District Attorney to make statements and charges of crimes in excess of those charged in the information herein.

Assignment Of Errors.

ASSIGNMENT OF ERROR NO. 6.

The Court erred in accepting and relying on statements and charges of crimes outside of the scope of the information filed herein in determining or considering the scope of punishment.

ASSIGNMENT OF ERROR NO. 7.

The Court erred in measuring the punishment directly in proportion to profits of the defendants claimed by the District Attorney and denied by the defendants without opportunity to be heard on the amount of said profits.

ASSIGNMENT OF ERROR NO. 8.

The Court erred in fining the defendants jointly and severally an amount equal to profits which the District Attorney asserted that the defendant corporation had received.

ASSIGNMENT OF ERROR NO. 9.

The Court erred, notwithstanding the plea of guilty, in holding the defendants liable for penalties in view of the defendants' claim of having acted in good faith as provided in Section 925 (d) Title 50, United States Code Annotated.

ASSIGNMENT OF ERROR NO. 10.

The Court erred, notwithstanding the plea of guilty, in refusing to permit the defendants to call witnesses and be heard and show the extent to which they acted in good faith.

Assignment Of Errors.

ASSIGNMENT OF ERROR NO. 11.

The Court erred in entering any judgment in this proceeding for the reason that Section 925 (b) of Title 50, United States Code Annotated, under which the fines were rendered, is unconstitutional and void as discriminatory for the reason that it permits the Attorney General to prosecute violators of the act, or not, wholly "in his discretion".

ASSIGNMENT OF ERROR NO. 12.

The Court erred in denying to the defendants a fair trial in respect to the determination of the fines imposed against them for all the reasons set forth in the petition for reconsideration herein, which petition was filed March 8, 1943, and denied April 19, 1943.

And by reason of said errors and other manifest errors appearing in the record herein, the defendants pray that the judgment of Seventy-one Hundred (\$7100) Dollars fines jointly and severally against the defendants be set aside.

RING and MURRAY,
Attorneys for Defendants.

To:

HON. MATHIAS F. CORREA,
United States Attorney.

CLERK OF THE UNITED STATES DISTRICT COURT,
Southern District of New York.

